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collective action and class action members*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**BRANDON SALUS, and ALAN FELIX  
IPANAQUE CORDOVA, on behalf of  
themselves and others similarly situated,**

INDEX NO: 07cv03142-GBD-DCF

**Plaintiffs,**

**FLSA COLLECTIVE ACTION AND  
RULE 23 CLASS ACTION**

**v.**

**TSE GROUP LLC d/b/a B.B. KING BLUES  
CLUB AND GRILL and TSION BENSUSAN**

**Defendants.**

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**DECLARATION OF ERIC OWENS**

I, Eric Owens, under penalty of perjury, swear/affirm as follows:

1. My name is Eric Owens.
2. I was employed by TSE Group as a server at B.B. King Blues Club ("B.B. King") from the May of 2004 until July of 2005.
3. I was informed by B.B. King's management, specifically Gabby Brechner, that its practice is to charge an employee for a customer's bill when that customer does not pay the bill. For example, when a customer walks out without paying his bill (a "walk-out"), the restaurant forces the waiter to pay for the customer's bill.

4. I was several times forced to pay for walk-outs out of my nightly tips. On one occasion I paid over \$400 to cover a walk-out, and on two other occasions I paid over \$100 for walk-outs.

5. My paychecks consistently reflected unexplainable \$5 deductions. Upon inquiry, I was told by Ms. Brechner that the deductions went to cover porters' salaries.

6. When I worked in excess of 10 hours in a day, B.B. King did not pay me New York's "spread of hours" premium.

7. B.B. King often charges mandatory gratuities to customers for private parties. When I worked at such private parties, I did not receive any portion of those gratuities.


8. From the beginning of 2005 until the end of my employment with B.B. King, I was paid an hourly wage of \$3.30, instead of the New York minimum wage at the time, \$3.85.

9. B.B. King's practice was to require servers to tip out to expeditors, busboys, and bartenders from their own cash. As a result, B.B. King deducted too much money for our withholding taxes. For example, if on a given night, my tips were \$300, and my required tip-out was \$100, I was required to pay the tip-outs in cash from my own pocket. However, when reporting my income, B.B. King would not have factored out the tip-outs, and I would have been taxed as though my gross income was \$300, when it was in fact \$200.

10. I was not paid at all for my first five days working at B.B. King.

I swear/affirm, under penalty of perjury, that the above and foregoing information is true and correct.

Dated: June 21, 2007

  
Eric Owens